



## **DEPARTMENT OF TRANSPORTATION**

### **Federal Railroad Administration**

#### **[Docket Number FRA-2013-0123]**

#### **Petition for Waiver of Compliance**

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated November 19, 2013, Mr. Benny McCune of Cass Scenic Railroad State Park (CASS) of the West Virginia Division of Natural Resources has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 215, Railroad Freight Car Safety Standards. FRA assigned the petition Docket Number FRA-2013-0123.

Specifically, CASS seeks an exemption from the requirements for stenciling of restricted cars for three cabooses, identified as Car Numbers 50, 51, and 311. The three cabooses are more than 50 years of age and, therefore, are restricted in accordance with 49 CFR 215.203(a). Specifically, 215.303, *Stenciling of restricted cars*, requires that cars restricted by 215.203(a) shall be stenciled in a certain way.

In support of its petition, CASS states that due to the historical importance of these cabooses and the fact that CASS is based on the historical facts surrounding the log camps of the early 1900s, CASS would like to keep the cabooses as historically accurate as possible.

CASS is a steam-powered tourist railroad operating on a main track of

approximately 11 miles. There are additional sidings and a track connecting CASS with another State-owned and operated railroad, the West Virginia Central Railroad. The total track mileage is approximately 18 miles. CASS has been operating since June 1963.

CASS states that it operates from Memorial Day weekend through the end of October. CASS does not interchange passenger cars or passengers. One trip is a 1.5-hour round trip covering a total of 8 track miles. The other trip is a 4.5-hour round trip covering a total of 22 track miles. The trains travel at a speed of 6 to 8 mph.

CASS also states that these three cabooses are primarily used for overnight rentals and will be used for special charter trains for photographic purposes from one to five times per year. Apart from these photographic trips, the cabooses will only be moved for maintenance reasons, and at no time will they exceed a speed of 10 mph or carry any passengers.

CASS further states that these cabooses are well maintained and in good condition. The slow speed, short-trip length, and the fact that CASS will not be carrying any passengers on these cabooses make the cabooses safe to be operated in the limited capacity on CASS track.

In addition, CASS also requests a Special Approval to continue these cars in service in accordance with 49 CFR 205.203(c).

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey

Avenue, S.E., W12-140, Washington, D.C. 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., W12-140, Washington, D.C. 20590.
- Hand Delivery: 1200 New Jersey Avenue, S.E., Room W12-140, Washington, D.C. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the

comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See <http://www.regulations.gov/#!privacyNotice> for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

Robert C. Lauby,  
Associate Administrator for Railroad Safety,  
Chief Safety Officer.

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